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	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
	09/843,637	04/26/2001	Shuhei Marukawa	10873.703US01	9215		
	23552 7	590 12/16/2003		EXAM	EXAMINER		
	MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			CHANEY, CAROL DIANE			
				ART UNIT	PAPER NUMBER		
				1745			

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Searchisor to time may be available under the provision of 30° ZFR 1.138(a). In no event, however, may a reply be timely filed searchisor to time may be available under the provision of 30° ZFR 1.138(a). In no event, however, may a reply be timely filed searchisor to time may be available under the provision of 30° ZFR 1.138(a). In no event, however, may a reply be timely filed searchisor to the provision of the provision of 30° ZFR 1.138(a). In no event, however, may a reply be timely filed if the period for reply seporate scale with the time to make the provision of the provision of the period for reply will, by above is less than thirty (30°) days, a reply within the stableony may be also also be also as the second of the communication, even if firrely (30°) days, will be considered timely. If the period for reply seporated by the second of the provision of the communication, even if firrely filed, may reduce any second provision of the provi					YB				
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Carol Chaney 1745 - The MALLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION. Fasement of time may be available under the provisions of JCPR 1.136(a) in or event, however, may a reply be timely filed the period for reply appendix once, the maximum startory period will open any of the provisions of the period for reply appendix once, the maximum startory period will open six (JMCN) This famile mainting date of this communication. If the period for reply appendix once, the maximum startory period will open six (JMCN) This famile mainting date of this communication. If the period for reply appendix once, the maximum start rise mainting date of this communication. If the period for reply appendix once, the maximum start rise mainting date of this communication, and the period for the maximum start rise mainting date of this communication, and the period of the communication. If the period for the adjustment. Set 37 CFR 1.78(b). Status 1) Responsive to communication(s) filed on 18 September 2003. 2a This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1 and 2 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5ignate and the period of the proving the period of the provin		09/843,637	М	ARUKAWA ET AĹ.					
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THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13(e), in no event, however, may a reply be limely filed after SIX (8) MONTHS from the mailing date of this communication. - If the percold reply systellar doles is less than thing (9) days. A neigh within the solution ynitimum of thiny (30) days will be considered timely. - If the percold on they specified able to be less than they will be advisionly interest to the thing of the solution of t	The MAILING DATE of this communication app Period for Reply	ears on the cover	sheet with the corr	espondence addre	ess				
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U.S. Patent and Trademark Office PTOL-326 (Rev. 11-03)



Application/Control Number: 09/843,637

Art Unit: 1745

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 September 2003 has been entered.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimakawa et al., US Patent 5,817,435, for essentially the reasons of record.

Shimakawa et al. disclose a battery comprising two end plates (33) and a plurality of cells (10) stacked adjacent to each other and bound by the end plates. The cells include a casing (12) of polyphenylene ether, polystyrene and preferably an elastomer. (column 3, lines 50-55,) The dimensions of the end plates and the binding members, which determine binding forces, are set in part by the number of stacked cells in the battery. (Column 6, lines 13-28.) The end plates and binding rods will cause the battery containers to be compressed immediately after assembly. As can be seen from Table 3 in column 8 of the Shimakawa et al. reference, battery casings were held at



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60°C with an internal pressure of 0.2 MPa, or about 2 atmosphere, for over 10,000 hours without breakage. Since the battery cases did not break, there was clearly no irreversible deformation beyond an expansion limit of the battery container.

With regards to claim 2, it is noted from a comparison of Figs. 3 and 4 of the Shimakawa et al. patent that the cells include a plate group, and the cells and the electrode plates are stacked in the same direction.

Response to Arguments

Applicant's arguments filed 29 September 2003 have been fully considered but they are not persuasive. Applicants assert there is no basis to assume that the force applied in the Shimakawa et al. battery is below the threshold required by the instant claims. Applicants claims require "irreversible deformation beyond an expansion limit of the battery container will not be caused by expansion of the battery container during use." The "expansion limit" of the container is taken to be the point after which the battery container will break. As shown in Table 6 of the Shimakawa et al. reference, no breakage occurs, and therefore the expansion limit has not been exceeded.

Applicants further assert that Shimakawa et al. are silent as to the battery being in a compressed state after assembly. It is noted that Shimakawa et al. at column 6, lines 17-18 describe battery cells which are "tightly bound" which is interpreted as compressed.



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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (703) 305-3777. The examiner can normally be reached on Mon - Fri 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Carol Chaney
Primary Examiner
Art Unit 1745